

**IN THE UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF ALABAMA**

**SUSAN S. DEPAOLA, Chapter 7 Trustee
for the Bankruptcy Estate of Philip L.
Goodwyn, and SIMPLE PLEASURES,
INC.,**

Plaintiffs,

v.

**V RESTAURANTS, INC., an Alabama
corporation, and VINCE SAELE, an
individual,**

Defendants.

Case Number: 06-00893-WKW-SRW

**Bankruptcy Case No. 05-32325 –
Chapter 7, Bankruptcy Adv. Pro. No.
05-03062-WRS**

PLAINTIFFS' PROPOSED VOIR DIRE QUESTIONS

Narrative of the Case

Simple Pleasures is an Alabama restaurant and food service corporation (solely owned by Philip Goodwyn) organized by Philip Goodwyn in June 28, 1993. Simple Pleasures owned and previously operated "Gators". Philip Goodwyn is the president of Simple Pleasures.

In or about July 2004, Philip L. Goodwyn received an initial offer from V Restaurants, Inc. and Vince Saele to purchase Gators. Mr. Saele backed out and rescinded this offer before it could be reduced to writing. Subsequently, Mr. Saele renewed contract negotiations and offered to purchase the restaurant business for \$90,000.00. The parties subsequently signed a contract. In pertinent part, the parties agreed to a \$90,000.00 purchase price and the Defendants agreed to purchase Gators, as a going concern, and to purchase all equipment, inventory and supplies, furniture, fixtures, and amenities. Additionally the Defendants agreed to assume responsibility for the existing lease or enter a new lease with Spectrum/ Vaughn Plaza, LLC.

The sale included intangibles such as a large customer base, experienced and trained staff, good will, over 15 years of recipes, signage, telephone number, licenses and permits, and direct assistance with the transition of all existing employees to the new owners.

The purchase price (\$90,000.00) was allocated, \$30,000.00 to Spectrum/ Vaughn Plaza, LLC, \$30,000.00 to Regions Bank, and \$30,000.00 to the Internal Revenue Service.

Concurrent with the instant contract, Philip L. Goodwyn agreed to allow the Defendants to take immediate possession of the restaurant while Philip L. Goodwyn obtained releases from Regions Bank and the Internal Revenue Service. Consequently after September 24, 2004, the Defendants had sole possession of the restaurant and amenities.

Regions Bank gave immediate approval to release its lien. After the Internal Revenue Service gave conditional approval to release its lien, counsel for the Plaintiffs notified Defendants' counsel that a closing should immediately be scheduled. One or two days later, (November 30, 2004) Defendants' counsel notified counsel for the Plaintiffs that the Defendants "...he has informed me that he is not no longer interested in the terms of the contract and has instructed me to write you a letter informing you of same. Accordingly, the offer to purchase is withdrawn..."

Later Spectrum/ Vaughn, LLC advertised the sale of some of the assets that were scheduled to be sold to the Defendants and these items were sold to V Restaurants, Inc., February 4, 2005, for \$21,874.00.

Mr. Goodwyn subsequently filed a petition for an order of relief in the United States Bankruptcy Court, August 10, 2005. The instant filing was precipitated by the failure or refusal of the Defendants to purchase the restaurant and its amenities, a lawsuit filed by Regions Bank, and collection activities by the Internal Revenue Service.

As a result of these actions, the Plaintiffs initiated civil litigation against the Defendants under the legal theories referenced above.

Voir Dire

I will be asking you some questions about yourselves and your life experiences. In asking these questions, I may use the terms “family member” and “connection.” If I use the term “family member”, what I mean is you, your spouse or former spouse, your parents or stepparents, grandparents, children or stepchildren and brothers or sisters, including stepbrothers and stepsisters. If I ask if you have any “connection” with a certain person, business or thing, I am asking that as broadly as possible, meaning are you related to them, are you friends or acquaintances with them, do you know them, have you ever been employed by them or worked with them, have you ever used their products or services, have you ever been to one of their offices or facilities, do you have any relationship with or have you ever had any dealings with them and the like-as broadly as possible.

1. Are there any of you who have any connection to:
 - A) Susan DePaola, the Chapter 7 Trustee in the Bankruptcy case of Philip Goodwyn;
 - B) Phillip Goodwyn;
 - C) Vince Saele;
 - D) Marquis Belcher;
 - E) L. C. Wilson of the Internal Revenue Service;
 - F) Robert Smith of Regions Bank;
 - G) Edgar Fatzinger of Spectrum/ Vaughn Plaza, LLC;
 - H) Robert Russell, Parnell and Crum;
 - I) Gators Restaurant

J) The Hillwood Café

K) Celebrations Nightclub

L) Any restaurant owned and operated by V Restaurants, Inc.

2. Are there any of you who know or have any connection to the lawyers or employees of the law firms in this case.

A) The Defendants, Vince Saele and V Restaurants, are represented by Mr. Dan Hamm, Montgomery, Alabama.

B) Are there any of you ever had any matter where this law firm has represented you or has been on the other side?

C) The Plaintiffs, Susan S. DePaola and Simple Pleasures, are represented by Von Memory, Esq. and James Day, Esq. of Memory & Day, Montgomery, Alabama.

D) Are there any of you ever had any matter where this law firm has represented you or has been on the other side?

E) One of the witnesses, Robert Russell, was employed by Parnell and Crum. Are there any of you ever had any matter where this attorney or this law firm has represented you or has been on the other side?

3. Do any of you attend church, participate in any governmental or civil organizations, or have a business affiliation with any lawyer, their family, or any employee of the previously mentioned law firms? If your answer is yes, state the name of the group, and time, of the affiliation.

4. Have any of you, or any member of your family, ever been employed in any capacity by a lawyer or a law firm? If so, please state: (a) the name of the lawyer or firm; (b) the dates of employment; and, (c) your position and duties.

5. Do any of you have a relative who is: (a) a restaurant owner; (b) a landlord or property owner; (c) employee in the banking industry; (d) representative of the Alabama Department of Revenue; or, (e) representative of the Internal Revenue Service.

6. Do any of you know, have you done business with, or have you been employed by any of the parties (Philip Goodwyn, Simple Pleasures, Inc., Vince Saele, or V Restaurants) to the instant lawsuit? If your answer is yes, state the date and type of business.

7. Do any of you know anything about the facts of this case? If your answer is yes, state what facts you are familiar with and the source of your facts.

8. Have any of you, or a member of your family, ever been involved in the restaurant business?

9. Have any of you, or a member of your family, been involved in any litigation against a restaurant or a restaurant business?

10. Have any of you, or a member of your family, been involved in the property management or landlord business?

11. Have any of you, or a member of your family, filed any type of bankruptcy in any of the federal bankruptcy courts?

12. Have any of you, or any member of your family, ever filed a lawsuit? If your answer is yes, state the date of the lawsuit, where the suit was filed, the type lawsuit, and the outcome.

13. Have any of you or any member of your family ever been sued or had a lawsuit filed against you for any reason? If so, please state the type of case, the results, and the name of your attorney. If your answer is yes, state the date of the lawsuit, where the suit was filed, the type lawsuit, and the outcome.

14. Have any of you, or a member of your family, had any experience with delinquent

state or federal taxes?

15. Have any of you, or a member of your family, been the subject of any state (Alabama Department of Revenue) or federal (Internal Revenue Service) tax collection issues?

16. Are there any of you who have some familiarity with regard to making bank loans?

17. Are there any of you who believe V Restaurants or Simple Pleasures, Inc., should be treated any differently than an individual simply because they are business entities?

18. Are there any of you who have never borrowed money from a bank?

19. Are there any of you or your family members who ever been sued over the failure to repay a bank loan?

20. Are there any of you who believe it is okay to take money from a bank and then not repay it?

21. Are there any of you or your family members who ever been the victims of theft?

22. Are there any of you or your family members who have ever been charged with crime?

23. Have any of you have any prior experience as a party or witness in a civil litigation or lawsuits?

24. Have any of you ever served on a jury? Detail any prior jury service. Please state whether it was a criminal or civil case and the outcome of the case?

25. Do all of you understand that this case is brought by the Plaintiffs under the civil laws of the State of Alabama and the Plaintiffs are seeking not only compensatory damages, but punitive damages?

26. Are there any of you who have any reservations about awarding punitive (punishment) damages?

27. Are there any of you who know of any other member of the jury prior to your arrival to the courthouse today?

28. Are there any of you who have formed an opinion regarding the facts claimed in this lawsuit or the damages claimed by Susan DePaola or Simple Pleasures, Inc.?

29. Are there any of you who feel or have any tendency or leaning of sympathy toward the defendants just because they have been sued in this case?

30. Is there anyone here that if you were in charge of selecting a jury in this case, would not want you to be on the jury for any reason?

31. Do any of you have religious or other beliefs which would prohibit you from serving on a jury?

32. Are there any of you who, for whatever reason, just would rather not serve as a juror in this case?

33. Do any of you know of any reason whatsoever which would in any manner keep you from fairly and impartially sitting as a juror if you are selected in this case?

34. The Plaintiffs reserve the right to supplement this submission and may add additional questions to be posed to the venire and/or may delete some of the points discussed above.

Respectfully submitted on this the 12th day of March 2007.

Memory & Day

By: /S/ James L. Day
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Von G. Memory
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CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing document on the following, by:

- ☒ placing same in the United States Mail, postage prepaid, and properly addressed
- ☒ E-mail or ECF (Pursuant to Fed. R. Bankr. P. 9036)
- ☐ facsimile
- ☐ hand delivery
- ☐ delivered in open court

on March 12, 2007.

Daniel G . Hamm, Esq.
560 South McDonough St.
Montgomery, Alabama 36104

/S/ James L. Day
James L. Day